

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK  
CENTRAL ISLIP DIVISION**

**IN RE:**  
**Diane E. Carman,**  
  
**Debtor.**

**CASE NO.: 8-18-77472-ast  
CHAPTER 13**

**OBJECTION TO CONFIRMATION OF DEBTOR'S CHAPTER 13 PLAN**

Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage Securities Inc., Quest Trust 2005-X2, Asset Backed Certificates, Series 2005-X2 ("Secured Creditor"), by and through its undersigned counsel, objects to confirmation of Debtor's Chapter 13 Plan (DE #2), and states as follows:

1. Debtor, Diane E. Carman ("Debtor"), filed a voluntary petition pursuant to Chapter 13 of the Bankruptcy Code on November 6, 2018.
2. Secured Creditor holds a security interest in the Debtor's real property located at 85 Brower Avenue, Woodmere, NY 11598, by virtue of a Mortgage recorded on July 5, 2005 in Book M 29033, at Page 363 of the Public Records of Nassau County, NY. Said Mortgage secures a Note in the amount of \$120,100.00.
3. The Debtor filed a Chapter 13 Plan on November 6, 2018.
4. Debtor's Plan evidences an intent to seek a mortgage modification with Secured Creditor. However, the assigned judge, the Hon. Alan S. Trust does not participate in the Bankruptcy Loss Mitigation program. Therefore, Debtor must pursue a Loan Modification directly with the Secured Creditor.
5. Furthermore, the Plan proposes to make adequate protection payments to the Chapter 13 Trustee in the amount of \$2,550.00. With the Court not supervising a loss mitigation process, the current monthly payments or adequate protection payments should not be delivered to the Trustee, but rather should be paid directly to the Secured Creditor.
6. The Plan includes payments toward the Note and Mortgage with Secured Creditor; however, the figures used by the Debtor are inaccurate. It is anticipated that Secured

Creditor's claim will show the pre-petition arrearage due Secured Creditor is \$233,610.45, whereas the Plan reflects the amount at \$231,250.56. Therefore, the Plan is not in compliance with the requirements of 11 U.S.C. §§ 1322(b)(3) and 1325(a)(5) and cannot be confirmed. Absent a concluded permanent loan modification, Secured Creditor objects to any plan which proposes to pay it anything less than \$233,610.45 as the pre-petition arrearage over the life of the plan.

7. Thus far, a loan modification has not been offered or approved. Debtor is obligated to fund a Plan which is feasible to cure the arrears due to the objecting creditor within a reasonable time pursuant to 11 U.S.C § 1322(b)(5). Therefore, in the event that any loss mitigation efforts are not successful, the plan fails to satisfy the confirmation requirements of 11 U.S.C § 1325(a)(1).
8. The Plan does not appear feasible as it proposes insufficient payments to the Chapter 13 Trustee. The Plan intends to make a total payment of \$153,000.00 to the Trustee over a 60-month term. This amount is insufficient to cure Debtor's prepetition arrears of \$233,610.45 in the event a loan modification is not completed. Thus, the plan violates the provisions of 11 U.S.C. § 1325(a)(3) and cannot be confirmed.

**WHEREFORE**, Secured Creditor respectfully requests this Court sustain the objections stated herein and deny confirmation of Debtor's Plan, and for such other and further relief as the Court may deem just and proper.

Dated December 3, 2018

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on December 3, 2018, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, and a true and correct copy has been served via CM/ECF or United States Mail to the following parties:

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MARIANNE DEROSA  
STANDING CHAPTER 13 TRUSTEE  
125 JERICHO TPKE  
SUITE 105  
JERICHO, NY 11753

U.S. TRUSTEE  
560 FEDERAL PLAZA - ROOM 560  
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